

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

NICOLE WINGFIELD,) CASE NO. 5:12 CV 2620
Plaintiff,)
v.) JUDGE JOHN R. ADAMS
ESCALLATE, LLC,)
Defendant.) ORDER

This matter is before the Court on Defendant Escallate, LLC's Motion to Dismiss Count Five of Plaintiff's Complaint filed on October 22, 2012. Doc. 4. Plaintiff Wingfield opposed the motion on October 24, 2012. Doc. 7. Defendant thereafter replied in support of the motion. Doc. 8. The matter is now ripe for decision.

Upon review of the parties' briefs, the Court finds Defendant Escallate's motion well-taken. For the following reasons, Count Five of Plaintiff's Complaint is hereby DISMISSED.

In Count Five, Plaintiff Wingfield alleges wrongful termination in violation of public policy under the Family Medical Leave Act and O.R.C. §4112. Plaintiff Wingfield argues that there is a conflict in the case law and, therefore, this Court should not dismiss the public policy claim.

Because this is a state law issue, this Court is bound to apply the decisions of the Ohio Supreme Court. *Wiles v. Medina Auto Parts*, 96 Ohio St.3d 240 (2002) is

dispositive of Plaintiff's public policy claim based on an alleged violation of the Family Medical Leave Act. In *Wiles*, the Court refused to recognize a common-law action based on wrongful discharge in violation of public policy under the Family Medical Leave Act stating:

In addition to providing substantive rights, the FMLA provides specific remedies for employees who have been aggrieved by their employer's violation of the Act. This case asks us to recognize, as a matter of Ohio common law, a cause of action for wrongful discharge in violation of public policy based solely on an employer's violation of the FMLA. Because allowing such a claim is unnecessary to vindicate the policy goals of the FMLA, we decline to do so.

96 Ohio St.3d at 240.

Likewise, the Ohio Supreme Court addressed the issue of whether Ohio recognized a wrongful discharge claim based on allegations of discrimination for which remedies are available under O.R.C. §4112 in *Leininger v. Pioneer National Latex*, 115 Ohio St.3d 311 (2007). In *Leininger* the Court stated: "A common law tort claim for wrongful discharged based on Ohio's public policy against age discrimination does not exist, because the remedies in R.C. Chapter 4112 provide complete relief for a statutory claim for age discrimination." 115 Ohio St.3d at syllabus.

Thus, Ohio law is clear that no common law claim exists for wrongful termination in violation of public policy under the Family Medical Leave Act and O.R.C. §4112. Accordingly, Count Five of Plaintiff's Complaint is dismissed.

IT IS SO ORDERED.

December 21, 2012
Date

/s/ Judge John R. Adams
JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT COURT